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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,821	12/10/2003	Richard J. Hantke	KCX-772 (20000)	6793
22827	7590	11/01/2005		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tata

Office Action Summary	Application No. 10/732,821	Applicant(s) HANTKE ET AL.	
	Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/28/04, 3/28/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statements

The information disclosure statements (IDS) submitted on June 28, 2004 and March 28, 2005 were filed after the mailing date of the Application on December 10, 2003. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Claim Objections

Claims 2 and 6 are objected to because of the following informalities: in Claim 2 the word "of" between "edges" and "a back" has been omitted, and in Claim 6 the phrase "is comprises" is believed to be a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-9, 11-15 and 17-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Mizutani et al (U.S. Patent No. 6,500,160).

Art Unit: 3761

With respect to **Claims 1, 11, 12, 15, 17, 21, 24-26, 28 and 29**: Mizutani teaches package 1 comprised of packaging member 10 and sanitary napkin 2. (Fig. 1) (Col. 8, lines 62-65) Mizutani teaches that front portion 2c of package 10 is folded back onto central portion 2b and then rear portion 2d is folded over front portion 2c so as to overlay portion 2c, at which point confronting faces of each side region 10d are fused to form sealed portions 25 and the adhesive portion of tape tab 23 attached to opening flap 10c is adhered to face 10b of package member 10. (Fig. 2) (Col. 10, lines 3-16) Mizutani teaches that package member 10 is a laminate composite nonwoven fabric. (Col. 5, lines 26,27) Mizutani teaches that the fused faces of packaging material 10 are peeled from one another at sealed portions 25 for opening and resealing upon disposal. (Col. 10, lines 64,65) Mizutani teaches that the peel strength between the adhesive disposed on packaging member 10 and release sheets 21 and 22 is between 490 and 3920 mN/cm² (Col. 8, lines 62-65), or between 4.08 and 39.2 mgf, and a decibel level upon unsealing of portions 25 of 55 db. (Col. 12, line 1). Examiner is concluding that the peel strength between lateral side edges in portions 25 upon unsealing is at least as great as the peel strength between said edges and said release sheets owing to the absence of adhesive on release sheets 21 and 22.

With respect to **Claim 2**: As stated with respect to Claim 1, Mizutani teaches sealed portions 25 wherein confronting lateral edges are sealed together.

With respect to **Claims 3, 27**: As stated with respect to Claim 1, Mizutani teaches tape tab 23 with faces 23a and 23b extending from edge 10c, wherein 23a is adhered to portion 10b and 23b protruding from end edge 10c is coated so as to be releasably attachable to opening flap 2c. (Col. 8, line 66, 67, Col. 9, lines 1-9).

With respect to **Claims 4, 5, 7, 16, 20, 22 and 23**: As stated with respect to Claim 1, packaging material 10 is comprised of a composite nonwoven wherein the inner face layer 12, outer face layer 13 and intermediate layer 11 are all comprised of various nonwoven films. When packaging member 10 is folded into the pouch formation, the inner face layer 12 forms an interior of package member 10 and the outer nonwoven face layer 13 will still be exposed. Although nonwovens are substantially liquid-impermeable, they are also substantially vapor permeable. Edge portions 10d taught by Mizutani are comprised of all layers of the composite laminate nonwoven.

With respect to **Claim 8**: Please see the rejection of claims 4 and 5 above. Since Mizutani teaches a laminate and does not explicitly teach differing dimensions for each of layers 11, 12 and 13, Examiner is concluding that the length of inner layer 12 is equal to the length of outer layer 13.

With respect to **Claim 9**: Mizutani teaches that the laminate nonwoven material 10 is highly resistant to water-permeation. (Col. 5, lines 30-33).

With respect to **Claim 13**: Referring to Fig. 1, although Mizutani does not designate fold axes, they are clearly seen upon folding of portions 2c and 2d toward the opposing fold axis.

With respect to **Claim 14**: Mizutani teaches edge 10c of portion 2c that is unsealed except for the portions which are lateral edges that are sealed at regions 25. (Fig. 2)

With respect to **Claim 18**: Mizutani teaches that edge portions 10d are sealed using a heat roll.
(Col. 10, lines 13-16).

With respect to **Claim 19**: Sealed portions 25 are present on both lateral sides of package 10
when in folded position.

With respect to **Claim 30**: Each lateral side 10d of packaging material 10 defines sealing
regions 25.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani ('160) in view of Sorebo et al (U.S. Patent No. 6,716,203).

With respect to **Claims 6 and 10**: Mizutani does not teach a vapor permeable film sheet.

Sorebo teaches an inner-facing layer of laminate wrapper material 14 that is a microporous film that allows only vapor and not liquid to pass through. (Col. 4, lines 59-64) This allows for more breathability since air can also pass through, therefore it would be obvious to modify the inner layer 12 taught by Mizutani to be comprised of a microporous film as taught by Sorebo.

With respect to **Claim 16**: Mizutani teaches that packaging material 10 has water and breathability resistance (Col. 8, lines 28-34) and therefore does not teach a vapor permeable film. Sorebo teaches a microporous film that is liquid-impermeable but is moisture vapor permeable. Sorebo teaches that the holes are small enough to let vapor molecules pass without also allowing liquid molecules or other molecules of similar size (Col. 4, lines 59-64), therefore it would be obvious to modify the vapor-impermeable film taught by Mizutani to have less breathability resistance as it is possible to have a film that guarantees liquid-impermeability while still allowing vapor molecules to permeate as taught by Sorebo.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', with a long, sweeping horizontal stroke extending to the right.